UNITED NATIONS

CCPR

International Covenant on Civil and Political Rights

Distr.
GENERAL

CCPR/C/SR.787-812/Corrigendum
3 May 1990

ENGLISH

HUMAN RIGHTS COMMITTEE

Thirty-second session

SUMMARY RECORDS OF THE 787th TO 812th MEETINGS

Held at Headquarters, New York
from 21 March to 8 April 1988

Corrigendum

This corrigendum contains corrections made by members of the Human Rights Committee and the Secretariat to the English text of the summary records of the public meetings held by the Committee during its thirty-second session (CCPR/C/SR.787-792, 794, 796-804, 806-809 and 812).

The Committee also held five closed meetings during the session, the records of which (CCPR/C/SR.793, 795, 805, 810 and 811) were issued in restricted distribution. No corrections were received to the records of those meetings.

With the issuance of this corrigendum, the records of the above-mentioned meetings are to be considered final.

788th meeting

Page 2

Renumber the existing paragraphs 1 and 2 as paragraphs 2 and 3, delete the existing paragraph 3, and as paragraph 1 insert

1. At the invitation of the Chairman, Mr. Thiam (Guinea) took a place at the Committee table.

Paragraph 3

At the end of the paragraph insert The judiciary had been reduced to the role of a figurehead. Magistrates had been stripped of their powers and replaced, at all levels of jurisdiction, by people's judges, i.e., political leaders who enforced "revolutionary morality" rather than law. Defendants had been represented by people's attorneys, political leaders without legal training.

792nd meeting

Paragraph 32, line 6

For private sector read economy

794th meeting

Page 2

As heading before paragraph 1 insert Initial report of the Central African Republic (continued) (CCPR/C/22/Add.6)

796th meeting

Paragraphs 2 to 12

For the existing text substitute

2. Mr. MALDONADO RENNELLA (Ecuador), introducing the report, said that, on behalf of his Government and as Procurador General of the State of Ecuador, he was glad to have the opportunity to declare that in Ecuador the principles of the Universal Declaration of Human Rights and the norms of the International Covenant on Civil and Political Rights and those of the Optional Protocol thereto were respected, applied and were fully in force. The same was true of the rights set forth in the Covenant and the other relevant international instruments. Before tackling the contents of the report and beginning the examination and discussion of it, he would like to make a number of preliminary points.

(a) In the first place he would like to give a brief account of the situation, i.e., of the "factors" mentioned in article 66, paragraph 1, of the rules of procedure of the Committee. The progress and the difficulties regarding the situation of human rights were related to the material, economic, social and political situation of Ecuador. Material conditions in Ecuador would include geographical, economic, historical, cultural, political and civil considerations. He would also like to deal with the non-material conditions, both collective and individual, of the Ecuadorian people against the background of the ethical, moral and religious categories of society at the present moment in history. He would also mention the international situation and conditions in Latin America.

(b) Turning to the background data concerning Ecuador, he stated that it was located in the middle of the world; that it covered an area of 275,341 km^2; that illiteracy had been reduced by between 10 and 15 per cent; and that, with its high juvenile population, more or less 30 per cent of the population was under 25.

(c) Ecuador had four distinct economic zones. The insular zone consisted of the province of Galapagos. The Oriente, in the Amazon basin, produced petroleum. The Costa or coastal plain, was concerned with products for export, such as cacao,

coffee, bananas, shrimp, etc. The Sierra, or uplands, was concerned mainly with products for domestic consumption. All those regions were suitable for the production of drugs, especially coca and marijuana.

3. Turning to the political conditions in Ecuador, he recalled that between 1830 and 1984 Ecuador had had 17 or 18 Constitutions. Between 1960, the time when Ecuador had become a petroleum-exporting country and 1984, there had been two military dictatorships, and two presidential régimes with three Presidents. Between 10 August 1979 and 24 May 1981, Mr. Jaime Roldós had been President. Since that date until 10 August 1984, Mr. Osvaldo Hurtado had been President. The third President was Mr. León Febres Cordero, who presided over a Government with a permanent opposition.

4. President León Febres Cordero assumed power in 1984 as a result of the expression of the democratic will of the people of Ecuador. A parliamentarian with more than 30 years of experience, he was one of only two members of the opposition in Parliament from 1979 to 1984. In recent years, the present Government had faced a political opposition in all State functions. Of the 71 Parliamentarians who constituted the Congress, more than 60 belonged to the opposition. The situation in Ecuador could not be understood without taking that situation into account. The opposition also had a majority in the Tribunal of Constitutional Guarantees and in the judicial branch. The judicial restructuring of the State begun in 1979 had not yet been concluded. Parliament continued to function under provisional rules of procedure without compliance with article 61 of the Constitution, which stated that for the accomplishment of its work and the work of the legislative committees Congress would issue the Organic Law of the Legislature.

5. In order to understand the situation of human rights in Ecuador, it must be realized that Ecuador, like its neighbours, was confronted with enormous problems of illicit traffic in drugs and terrorism. It was impossible to understand the so-called violations of human rights in Ecuador without considering the conflicts taking place in neighbouring countries like Colombia and Peru. At the same time, the Government was facing other major difficulties: the external debt; the fall in the international prices of petroleum, the main source of domestic finance, from $26 to $16 a barrel; the aftermath of the 1986 earthquake; the destruction of the oil and gas pipeline, which prevented petroleum exports for six months; and the devastating rains of 1987 which were heavier than those of 1983.

6. With regard to drug trafficking, Mr. León Febres Cordero, one day after taking office, signed, on 11 August 1984, the Quito Declaration against Traffic in Narcotic Drugs, together with the Heads of friendly States who attended his inauguration. Basically, the Declaration requested the countries of the world to declare that traffic in narcotic drugs was a crime against humanity. In May 1986 the legislative branch convened the Interparliamentary Symposium on Traffic in Narcotic Drugs and Narcotic Dependency, attended by members of most of the parliaments of America and certain other continents.

7. He wished to describe the role that the Procuraduría was playing in the fight against drugs. Under the Constitution, the Procurador General was appointed by the Parliament after being nominated by the President of the Republic. The

Procuraduría was an autonomous body responsible for defending the interests of the State vis-à-vis third parties and providing legal advice to the President and the Vice-President of the Republic, the Minister of State, the Controller General and superintendents of banks and companies. However, it should be made clear that only the National Congress was authorized to interpret the Constitution. The Procuraduría had submitted to the President the National Plan for Control of Illicit Drug Trafficking and Drug Abuse, which had been approved by Executive Decree No. 1000 of 29 July 1985.

8. Under that plan, it had been possible to mobilize the entire juvenile population in the fight against the illicit traffic in drugs; in addition, anti-alcohol and anti-tobacco campaigns directed at pre-schoolchildren had been launched; with the assistance of the United Nations Fund for Drug Abuse Control, the National Division against Drug Abuse had been totally reorganized. The Division formed part of the Procuraduría and its National Director was responsible to the Procurador. The Procurador was responsible to the President of the Republic. The high priority accorded to that matter could also be seen in the fact that the current President had a separate department concerned with the control of coca cultivation. It was under the authority of a top-level member of the armed forces.

9. As part of the campaign against substance abuse and drug trafficking, the Procuraduría had convened numerous international and national meetings. They included the Conference on chemicals essential for the production of cocaine, in association with the Ministry of Justice of the United States; the eighth meeting of customs directors of Latin America, Spain and Portugal, in co-ordination with the General Directorate of Customs of Ecuador; the meeting of the mixed Colombian-Ecuadorian Commission for co-operation and liaison to prevent the illicit use and to control the illicit traffic in narcotic and psychotropic substances, which initiated joint action programmes to combat illicit traffic and to destroy coca plantations on the frontier between Ecuador and Colombia; the First International Symposium on drug abuse; the First Inter-Institutional Course against Drugs in co-operation with the General Command and the General Directorate of the National Police Institute, which lasted six months, with students from the National Police, Interpol and the Customs Police; the First Day of Co-ordination with the National Union of Journalists; the meeting of provincial heads of Preventive Action for the preparation of an evaluation of the intermediate-level educational project in the coastal provinces. Preparations were also being made for the first meeting between Ecuador and Peru on narcotic drugs and psychotropic substances. Thus, his country's international position on drug trafficking was clear and efforts to combat that problem were well under way.

10. The problem of drug trafficking was related to the problem of terrorism. The terrorists provided armed protection to drug producers, who in turn supplied the funds to arm the terrorist groups. That relationship could be clearly seen in neighbouring countries such a Colombia and Peru. Although Ecuador had once been called an "island of peace", idealistic or pseudo-idealistic revolutionary ideas had served as a pretext for a series of terrorist incidents, including kidnapping, assassination, murder, bank robberies and other crimes.

READEX FICHE

11. Such was the context in which the Government had to function. Moreover cases of delay in the judicial process were being cited by some as human rights violations on the part of the Government. In general, Mr. Maldonado Rennella wished to have a frank dialogue with the Committee and, in that connection, he was not going to invoke article 30 of the Universal Declaration of Human Rights in relation to article 5 of the International Covenant or the conditions for admissibility established for the communications of individuals in the Optional Protocol.

12. As stated in the second periodic report of Ecuador (CCPR/C/28/Add.8), under article 44 of the (current) 1979 Constitution, with the amendments of 1983 and the codification of 1984, the State guaranteed to all individuals, men or women, under its jurisdiction the free and effective exercise and enjoyment of civil, political, economic, social and cultural rights set forth in declarations, covenants, agreements and other international instruments currently in force. He then asked to be allowed to read out the article in question, comparing it with the Universal Declaration of Human Rights, the International Covenants and the Optional Protocol; it was clear that those who had drafted the constitutional provisions had had before them the international documents he had mentioned.

Paragraphs 15 to 17

For the existing text substitute

15. Mr. MALDONADO RENNELLA (Ecuador) said that on 24 March 1987 his Government, through the intermediary of Mr. Galo Leoro F., Permanent Representative in Geneva, had received a list of issues and prepared the corresponding replies. However, some of the questions on the list that had now been presented had been added later. Hence, he was unable to reply to those questions that had been received by the Ecuadorian Foreign Ministry at a later date.

16. He turned first to section I (a) of the list of issues which concerned the functioning of the Tribunal of Constitutional Guarantees. Since 1944 Ecuador has had four Constitutions. The Constitution of 1945, promulgated on 6 March of that year, established for the first time in the constitutional history of Ecuador the Tribunal of Constitutional Guarantees. Its functions and duties were to monitor compliance with the Constitution and with the laws and also to comment on decrees, agreements, regulations and resolutions in general. Its powers were similar to those laid down in subsequent Constitutions, especially that of 1967. The second of the four last Constitutions was adopted in 1946. In that year Mr. José María Velasco Ibarra proclaimed himself dictator and convened a new Constituent Assembly. That Assembly adopted the Political Constitution of the Republic of Ecuador, promulgated on 31 December 1946, in which the Tribunal of Constitutional Guarantees was abolished. In its stead the Council of State, with powers very similar to those of the Tribunal of Constitutional Guarantees, was established. The third of the Constitutions of recent years was that of 1967. The rule of law having been broken, the National Constituent Assembly of 1967 adopted the Political Constitution of the State of Ecuador which was promulgated on 25 May 1967. That Constitution re-established the Tribunal of Constitutional Guarantees. Article 219 provided for a Tribunal that was completely different from

the one provided for in the present Constitution. The Tribunal of Constitutional Guarantees established by the 1967 Constitution operated subject to the Organic Law of the Tribunal of Constitutional Guarantees of 1968. In 1969 it adopted its rules of procedure under which the present Tribunal of Constitutional Guarantees was required to operate. The fourth Constitution of the period in question was that of 1979. The last Government of the Armed Forces, through the Supreme Government Council, submitted to a referendum on 15 March 1978 the so-called "draft 1945 revised Constitution" and the "Draft of the New Political Constitution of the Ecuadorian State". The new Constitution was promulgated on 27 March 1979. Article 140, for the third time, provided for the establishment of the Tribunal of Constitutional Guarantees. It was totally different from the Tribunal established in the 1967 Constitution. For the operation of that Constitution the law of 1968 and the regulations of 1969 were adopted. It is important to explain how the Tribunal of Constitutional Guarantees was established under that Constitution. The Parliament was made up of two Chambers, the Senate and the Chamber of Deputies. The Parliament of 1979 was unicameral. The Constitution of 1967 laid down that the Tribunal of Guarantees should be made up of the following: one senator elected by the Senate, which was subsequently abolished; two deputies, one of which should represent the parliamentary minority; the President of the Supreme Court of Justice; a representative of the President of the Republic; the Procurador General del Estado; the President of the Supreme Electoral Tribunal; and three citizens who did not belong to the legislative branch and who would be elected by the plenary Congress. All those representatives no longer make up the Tribunal. At the moment, the membership of the Tribunal is completely different because article 140 of the present Constitution laid down that the members of the Tribunal would be elected in the following manner: three from outside the Congress and eight others, two representing the President of the Republic; two the Supreme Court of Justice; two the citizenry, elected by both electoral colleges, one chosen by the cantonal mayors and another by the provincial prefects; one chosen by the national legally registered trade unions; and one chosen by the Chambers of Production recognized by the law. It is important to explain the different membership of the current Tribunal of Constitutional Guarantees as compared with the Tribunal set up under the 1967 Constitution. It was a tradition of Ecuadorian constitutional law that every time the rule of law was broken a new Constitution was established. The exception was the last Constitution which, as already explained, was chosen by plebiscite. What was important for the replies to the questions asked was that the existing Tribunal of Constitutional Guarantees had no legal provisions or regulations currently in force. Nevertheless, the present Tribunal continued to operate under the law of 1968 and the regulations of 1969 since the National Congress had not yet adopted the new law. Article 140 of the existing Constitution stipulated that the law "would determine" the norms for its organization and operation and its rules of procedure; article 141 stipulated that the law "would regulate" the exercise of those functions and the limits of the Tribunal's competence with regard to the regular judicial organs. From the legal point of view, it was therefore established that the Tribunal, which was set up under the Constitutional, only had those powers given to it by articles 140 and 141 of the Constitution. In no way was it subject to the law of 1968 and the regulations of 1969, which were explicitly abolished in 1970 when Mr. José María Velasco Ibarra again was declared dictator and when he abolished the 1967 Constitution and the laws and regulations governing the institutions set up under that constitution, including the Tribunal of Constitutional Guarantees.

17. Under article 141 of the Constitution, the Tribunal was responsible for ensuring compliance with the Constitution, making comments on decrees, agreements, regulations and resolutions enacted in violation of the Constitution or of the laws, taking cognizance of the complaints made by any natural or juridical person regarding violations of the Constitution and exercising the other powers that the Constitution and the laws conferred upon it. The Constitution declared that disregard for the observations of the Tribunal was a punishable offence and empowered the Tribunal to seek the removal of those guilty. That constitutional provision, which was merely declarative, was not applicable in practice because of the failure to adopt the corresponding law whereby disregard of the Tribunal's observations would become a punishable offence and whereby the request for the removal of the guilty party became obligatory. Consequently, the Tribunal did not have any means of enforcing its observations.

Paragraph 18

Line 5: for a transnational bank read the Bank of London and South America

Penultimate line: after denunciation insert to the General Fiscal Ministry

Paragraph 19, last sentence

For the existing text substitute

It was important to note that even though the amendment of 1983 to the Constitution of 1978 which entered into force in 1979, by article 138, gave to the Supreme Court the power to suspend totally or partially the effects of laws, ordinances, etc., which were unconstitutional in form and substance, the 1983 Constitution transferred those powers to the Tribunal.

Paragraph 22, last two sentences

For the existing text substitute

The protection of human rights formed part of Ecuadorian constitutional law even before they were recognized in the Universal Declaration of Human Rights.

Paragraph 23, last sentence

For the existing text substitute

With regard to the conclusions on human rights of the Congress in its recent report, he had no official or unofficial knowledge of the publication of such a report or even of its date.

797th meeting

Paragraph 7

For the existing text substitute

7. Mr. MALDONADO RENNELLA (Ecuador) said that Ecuador was still engaged in the process of completely rebuilding its legal structure after two decades of military dictatorships in which legislation consisted of decrees with force of law. As already explained, between 1944 and 1979 Ecuador had promulgated four Constitutions: the unicameral Constitution of 1945; the bicameral Constitution of 1946; the bicameral Constitution of 1967, with a Senate and a Chamber of Deputies; and the unicameral Constitution of 1979, with a National Chamber of Representatives. With the amendments of 1983 and the codification of 1984, it continued to be unicameral, but with a National Congress.

Paragraph 8

Line 7: for parliament for a term of six years read National Congress for a term of four years

Penultimate line: for parliament read the National Congress

Paragraphs 10 to 22

For the existing text substitute

10. Questions had been asked about the appointment of the Supreme Court in 1984. The situation was as follows: The Transitional Provision of the Codification of the Existing Constitution (second paragraph) provided that, in spite of the constitutional amendments, the authorities and representatives designated by popular election and the officials designated by the National Chamber of Representatives would continue to discharge their functions until the expiry of their respective terms of office. On the other hand, the Constitution stated that a special procedure was required to amend the Constitution and approval of such a step required the votes of at least two thirds of the plenary Congress in two debates. However, since the members of the parliamentary opposition did not have sufficient votes to revise the transitional provision and since article 67, paragraph 4, stated that legislated acts did not create or extinguish rights or modify or interpret the law, they would have the character of agreements or resolutions. In other words, any modification or interpretation of the Constitution as the supreme law of the land must be effected by a law and not by a simple resolution. Article 139 of the Constitution provided that, in case of doubt over the scope of the norms laid down in the Constitution, only the National Congress could provide an interpretation through a simple resolution and not through a law. The Transitional Provision of the Political Constitution as codified was interpreted in the sense that the terms of office for which the justices of the Supreme Court had been appointed were now terminated. For that reason, the President of the Republic, who under article 78 (a) was responsible for securing compliance with the Constitution, was opposed to the illegal constitutional interpretation described above.

11. On the subject of the authority of judges, he said that their powers were laid down in the Organic Law of the Judiciary. While the legislative, executive and judicial branches were assigned specific tasks, with the advance of public law they were interrelated, and each branch performed some of the functions of the other two. For example, the legislative branch not only legislated but also conducted the political trials referred to in the Constitution. The executive branch complemented the legislative branch in that the President of the Republic had a constitutional obligation to regulate the law. Furthermore, certain administrative courts and judges who dealt with fiscal matters and administrative disputes were appointed by the executive branch. For example, the Ministry of Agriculture settled problems of communes, land tribunals, water issues, minors and so on, which did not depend on the judicial branch. The judicial branch was made up of the Supreme Court of Justice, the Fiscal Tribunal and the Contentious-Administrative Tribunal. Their task was to judge and to secure compliance with judgements. In addition, where there were contradictory findings within a single court or a number of courts, they met in plenary session and adopted resolutions with force of law. The resolutions were published in the Official Register and were binding until the National Congress determined otherwise. They also took administrative decisions and could decide any matter relating to the officials and employees of the judiciary branch.

12. With regard to a report mentioning a parliamentary human rights committee, he pointed out that such a committee existed but to his knowledge it had not published an official report.

13. The task of interpreting the Constitution belonged to the National Congress. The Constitution was the supreme law of the land and, in accordance with article 137, provisions that opposed the Constitution or modified its precepts in any way were void. With regard to the scope of the norms contained in the Constitution, only the National Congress could interpret them in generally binding terms (article 139). Article 143 provided for amendments to the Constitution which could be proposed by legislators, the President of the Republic or the Supreme Court of Justice or by referendum. The National Congress debated drafts of constitutional amendments, which must be approved by at least two thirds of the total membership and submitted to the President of the Republic. If he approved a proposal, it would then be promulgated in accordance with the law. Proposals could be submitted to a referendum if rejected partially or totally by either the President or the National Congress. As to whether or not the President could determine the constitutionality of the resolutions of the National Congress, he referred to article 69 of the Constitution. If the President objected to a bill, the National Congress could not consider it again for at least a year. It could, however, ask the President to submit the matter to a referendum. If the objection related to only part of a bill, the National Congress could reconsider it.

14. With regard to the appointment of ministers and judges, the President of the Republic could not make such appointments on his own initiative. At present, the National Congress appointed members of the Supreme Court of Justice, the Fiscal Tribunal and the Contentious-Administrative Tribunal.

15. The President of the Republic could temporarily suspend the force of law, but only under circumstances provided for specifically in the Constitution. Under

article 78, the President of the Republic was empowered to suspend constitutional guarantees, but at no time could he suspend the right to inviolability of life and personal integrity, or order exile or imprisonment. He must declare the state of emergency over when the causes which gave rise to it had disappeared. He must also notify the National Congress or the Tribunal of Constitutional Guarantees to that effect. However, that faculty had not been used during the current Administration except on a single occasion. At that time, the state of emergency had lasted only one day and was prompted by illegal work stoppages. In that particular case Ecuador had strictly complied with article 4, paragraph 3, of the International Covenant on Civil and Political Rights.

16. As a result of the reforms of 1983 and the codification of 1984, the power to derogate from or suspend the law had been transferred to the Tribunal of Constitutional Guarantees from the Supreme Court. The Tribunal could at any time suspend partially or totally the effect of laws or other provisions that were unconstitutional in either substance or form. It was obliged to submit its decision to the National Congress or to the plenary legislative committees, and no such decisions could have retroactive effect.

17. As far as the operation of the National Congress was concerned, article 59 of the Constitution laid down various matters that the Congress was obliged to deal with while in session each year. As far as its extraordinary sessions were concerned, the National Congress was obliged to deal solely with the matters for which each session had been called (article 64).

18. The possibility that the President might refuse to promulgate laws arose solely when he had issued resolutions or agreements which violated the Constitution. He was required to comply with and secure compliance with the Constitution, for example, in the case of the reorganization of the Supreme Court of Justice. The Supreme Court, meeting in plenary, was empowered to propose reforms to the Constitution and to adjudicate in cases of conflicting decisions on the same point of law. Its rulings were decisive and in the future would be mandatory so long as the law did not decide otherwise.

19. With regard to the political trial of Luis Robles Plaza, the main problem was that, under article 61 of the Constitution, the Congress was required to enact the Organic Law of the Legislature in order that its work and that of the legislative committees could be accomplished. So far, it had not done so. It was operating on the basis of its provisional rules of procedure. In accordance with the Constitution, the Congress could try ministers of State but there had to be a prior law and an accusation. However, the provisional rules laid down a totally different procedure known as "interpellation". That procedure dated back to the times when there had been a bicameral parliament and when the Chamber of Deputies was the accusor and the Senate was the judge. Under the same rules of procedure, the periods during which the Minister was to have been notified of the questions forming part of the interpellation had lapsed. Finally, the Minister was tried in absentia. He was accused of the violations committed by subordinates and in a manner completely contrary to the provisions of the Constitution. The Constitution laid down that he must receive a political trial for violations he himself had committed in the discharge of his office.

20. Separation of powers was a tradition enshrined in the Constitution. Should there be any doubt about the democracy of the Ecuadorian system, it need only be recalled that the National Congress had pardoned the leaders of two armed uprisings. When the President of the Republic was kidnapped by members of the Air Force at the air base of Taura, the Congress failed to support the rule of law and the human rights of the President. In any other Latin American country all of the political forces, including those of the opposition, would have come to the defence of the President. However, the Ecuadorian Congress not only failed to come to his aid but also decided to call for his resignation.

21. A bill had been put forward concerning the operation of the Tribunal of Constitutional Guarantees, the same bill that had been rejected by the President of the Republic as being unconstitutional.

22. The foreign policy of Ecuador had been traditionally based on two guidelines: the defence of the right of self-determination and the rejection of any form of colonialism or apartheid. Ecuador had consistently opposed the illegal occupation of Namibia by South Africa. It had voted in favour of all the United Nations resolutions demanding the independence of Namibia, including resolution 2145 (XXI) which had placed Namibia under the direct jurisdiction of the United Nations. Ecuador had also voted in favour of the resolutions adopted at the ninth and fourteenth special sessions of the General Assembly dedicated to the question of Namibia. It had also supported the resolutions which condemned the policy of apartheid of Pretoria.

Paragraph 24

For the existing text substitute

24. With regard to non-discrimination and equality of the sexes (articles 2 (1), 3 and 26) he did not have detailed statistics on the elections of 31 January 1988 since the Supreme Electoral Tribunal had processed the results only the week before. Mr. Rodrigo Borja (Partido Izquierda Democrática) and Mr. Abdalá Bucaram (Partido Roldosista Ecuatoriano) had emerged as finalists in the first round and would be running against each other on 8 May. The number of women candidates would not be known for another year or two after votes for all national and local offices had been tallied by the National Statistical Institute. The high percentage of absenteeism and black ballots continued to be a problem in Ecuador.

Paragraph 26

Lines 4 and 5: for laws on citizenship read National Security Law

Last line: for mid-nineteenth read end of the nineteenth

Paragraph 32

Line 2: for article 77 read article 78

Line 8: for national strike read work stoppage

Line 9: for national Parliament read National Congress

Paragraph 35

Line 1: for Public Prosecutor's office read Procuraduría General

after concerned about insert all human rights

Line 9: for Public Prosecutor's Office read Procuraduría General

Line 11: for ministry read Procuraduría General

Line 14: for Public Prosecutor's Office read Ministry of the Government

Page 9, paragraph 35

Line 1: after Human Rights, insert the Convention for the Protection of Human Rights and Fundamental Freedoms,

Line 5: after Officials, insert the Convention on the Prevention and Punishment of Terrorism,

Last two lines: delete , and international conventions against various aspects of terrorism. Thus, administrative measures had been taken at the highest levels

Paragraph 36, line 2

After July 1986 insert by the Ministry of the Government

798th meeting

Paragraph 2

The last sentence should read The Ministry of the Government, in its report which served as a basis for his statement, had pointed out that there had been no complaints of disappearances since 1986.

Paragraph 3, line 2

For Interior read Government

Paragraph 4

Line 2: for at the National Police Academy read in police institutes and schools

Line 6: for police code, which existed alongside the Penal Code read Penal Code of the National Police

Line 8: after escape insert in defiance of orders to halt

The sixth sentence should read In the case of street demonstrations, water cannons and tear gas which caused no harm were sometimes used.

Line 9: after unrest insert , prompted by political opposition to the Government,

Paragraph 6

The last two lines should read three annual vaccination campaigns. A programme which provided free medical services to children under six years of age had also been initiated.

Paragraph 18, last four sentences

For the existing text substitute

In Ecuador human rights had been, were being and would continue to be respected. The important fact was that Ecuador was a country with a tradition of respect for human rights. Exceptionally, in the campaign against terrorism and traffic in narcotic drugs and in the pursuit and investigation of common offences, infringements of human rights might have occurred. He repeated that those were exceptions. In the final analysis, the Committee was concerned with the name of Ecuador and not with the temporary governments of Mr. Roldos, Mr. Hurtado or Mr. Febres Cordero. For those reasons, he could not accept the allegations that had been made during the dialogue on the second periodic report and the second additional report of Ecuador. However carefully phrased and diplomatic the expressions used by Mr. Aguilar, he could not accept such terms as "dirty wars", which had occurred in other countries with more than 10,000 deaths or disappearances and which had given rise to a world movement such as the Mothers of the Plaza de Mayo and even the award of a Nobel Peace Prize. He repeated that Ecuador respected human rights.

Paragraphs 25 to 28

For the existing text substitute

25. Mr. MALDONADO RENNELLA (Ecuador) said that he would respect the Chairman's appeal to shorten statements. However, he wished to reply to question V (a), (b) and (c). Under the Code of Criminal Procedure no one could be detained for more than 24 hours, even in cases of flagrante delicto. With regard to (c), a person's

arrest and whereabouts were reported as quickly as the means of communication permitted, depending on the state of development of the different urban centres. Moreover, all persons had the right to a court-appointed lawyer.

26. With regard to section V (d), he read out article 4 of the Code of Execution of Sentences and Social Rehabilitation, published in the Official Gazette No. 282 of 9 July 1982, concerning The National Social Rehabilitation Council, and described how the members of the Council were appointed.

27. With regard to section V (e), he explained that the apparent conflict between the municipal authorities and the judges resulted from the fact that in Ecuador the Constitution was regulated by law and those authorities were subject to regulations. The text of the existing Law of Municipal Government did not coincide with the constitutional guarantee contained in article 19 (j). The latter provision established the right and laid down the regulations for habeas corpus and retained the principle of the former Constitution of 1946, which ws broader in scope than the existing constitutional norm. It allowed mayors and chairmen of municipalities to revise decisions that had been made by judges. However, article 137 of the existing Constitution stated that laws, decrees, ordinances, provisions, treaties or international agreements which conflicted with or altered the constitutional provisions had no legal validity. In the cases referred to in paragraph 53 of the second report, the judiciary had not complied with the mayor's decisions, considering them to be unlawful and unconstitutional. He stressed that the remedy of habeas corpus was protected by the Constitution. In the case in question, the municipal authorities had granted freedom to the detainees. They had been captured in Esmeraldas with a large quantity of coca.

28. With regard to section V (f), he said that the remedies other than habeas corpus included the petition of complaint (recurso de queja), also known as judicial habeas corpus, which was provided for in the Code of Criminal Procedure. The difference was that the petition of complaint was confined to violations of the Penal Code and that it must be made before a penal law judge. The same Code laid down, for cases in which there had been a violation of criminal procedure, the recourses of appeal, nullity, cassation, revision and the possibility of being released on bail. Moreover, under article 179 of the Code of Criminal Procedure, judges were required to refrain from issuing an order of preventive detention if the maximum sentence in a case under investigation was one year of detention; if the sentence amounted to less than six months, the judge was empowered to suspend it.

799th meeting

Paragraph 7

Line 2: for concisely read concretely

Line 4: for the guidelines for read articles 66 and 71 of the provisional rules of procedure of the Committee on

Line 5: for not possible read inappropriate

Line 15: for pre-trial detention of read prison sentence dictated by the judge within a penal process, through a writ of preventive detention, to

Line 17: delete formal

Paragraph 9

Line 2 should read enjoyed a cultural tradition for almost 500 years, and since the Spanish colonization and independence, had had a tradition of urban civilization. Any dialogue on the situation of

Paragraph 10

Line 1: for had only prisons, read had, in addition to prisons, places of detention

Line 5: for his lawyer and family were read his family was

Paragraph 11, line 3

For individualization of sentences read treatment of the detained

Paragraph 12, last line

After spouses insert and cohabitants of the prisoners

Paragraph 13

Line 4 should read sentences. Recidivism was minimal for crimes of passion as well as among prisoners from the countryside. As mandated by law, defence lawyers worked with the centres on a

Paragraph 18

The last sentence should read Indeed, prisoners nearing release occasionally held keys to the establishment and in general used them to buy and bring food into the prison.

Paragraph 22

The last sentence should read At the second or trial stage, the presumption of innocence was suspended and the process of establishing the guilt and responsibility of the accused was applied, with a view to sentencing.

Paragraph 24, line 1

Line 1 should read Those awaiting judgement in the pre-trial stage, suspects and certain economic offenders such as those owing alimony payments, were

Paragraph 25

Line 2: for accessory read offender

The fourth sentence should read Appeals on the decisions of these courts could be made to the Supreme Court for minors, of the Ministry of Social Welfare.

Line 6: for Offenders read Minors

Paragraph 28, penultimate line

For during detention or imprisonment read while serving the sentence

Paragraph 29

Line 1: delete or, occasionally

Last line: for suggest read prove

Paragraph 30

The third sentence should read President Febres Cordero had disagreed with Congress on the election of the members of the current Supreme Court, but a parliamentary solution had been reached within constitutional principles.

The last line should read the report of the Ministry of the Government to the President of the Republic.

Paragraph 31

Line 3: after various insert supreme

Line 5 should read and (e), one could only be judged by the competent judge and could not be judged by ad hoc tribunals; no one could be charged without a hearing, and anyone accused of a

Penultimate line: for would be heard only read could be heard

Last line: after competent insert judge or

Paragraph 32, last line

Delete personally or through his attorney

Paragraph 33

Line 4: for blood, financial read conjugal or consanguine, economic

Line 6: delete or requests for a retrial

Paragraph 34, line 4

For law establishing the judiciary read Organic Law of the Judiciary

Paragraph 35, last line

After the removal insert by the Supreme Court of Justice

807th meeting

Paragraph 28

The final sentence should read He would prefer not to comment on the desirability of any particular threshold for franchise in elections on self-determination for New Caledonia.

Paragraph 43

The first sentence should read

43. Mr. ROBERTSON (Australia), replying to the first point under section IV of the list of issues, said that Australia participated actively and constructively in the multilateral consideration of arms control and disarmament in the General Assembly and the Disarmament Commission.